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4 IN THE UNITED STATES DISTRICT COURT  
5 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
6

7 UNITED STATES OF AMERICA,  
8 Plaintiff,

9 v.

10 MARCUS FELDER,  
11 Defendant.

Case No. 14-CR-00536-MMC  
Case No. 19-CR-00256-MMC

**ORDER DENYING DEFENDANT'S  
REQUEST FOR RELEASE**

12  
13 Before the Court is a Request for Relief, filed March 18, 2020, whereby defendant  
14 seeks an order releasing him from Santa Rita Jail in light of COVID-19. The government  
15 has filed opposition, to which defendant has replied. Having read and considered the  
16 papers filed in support of and in opposition to the request, the Court rules as follows.

17 Defendant is presently incarcerated at the Santa Rita Jail, awaiting sentencing in  
18 Case No. 14-CR-00536, following a jury trial in which he was convicted of fraudulent use  
19 of unauthorized access devices, effecting transactions with access devices issued to  
20 other person, and aggravated identity theft. Additionally, he is awaiting trial in Case No.  
21 19-CR-00256, in which action he is charged with failing to appear for sentencing in Case  
22 No. 14-CR-00536 and contempt of court.

23 By the instant request, defendant seeks release under the standards set forth in  
24 18 U.S.C. § 3142(f)(2) and § 3142(i), which sections apply to pretrial detainees. As  
25 noted, however, defendant has been convicted and is awaiting sentencing. Under such  
26 circumstances, the applicable statute pertaining to release is 18 U.S.C. § 3143(a)(1),  
27 under which a person awaiting sentencing may not be released "unless the judicial officer  
28 finds by clear and convincing evidence that the person is not likely to flee or pose a

1 danger to the safety of any other person or the community if released." See 18 U.S.C.  
2 § 3143(a)(1). The Court finds defendant has failed to make the requisite showing.

3 First, the Court finds defendant has failed to show by a preponderance of  
4 evidence, let alone by clear and convincing evidence, that he is a not a flight risk.  
5 Defendant did not appear as ordered at his sentencing on April 17, 2019, and, even if, as  
6 defendant asserts, "international borders are essentially closed" in light of the present  
7 COVID-19 pandemic (see Def.'s Reply. at 10:26-27), defendant could, as demonstrated  
8 by his recent behavior, fail to appear at scheduled court proceedings while remaining at a  
9 location within the United States that is unknown to the Court and the government.


10 Second, although there is no suggestion defendant poses a danger to the physical  
11 safety of others if released, defendant has failed to show he poses no danger to the  
12 economic safety of others if released. In that regard, shortly after his release from  
13 custody following an arrest in 2013, in which he was found in possession of numerous  
14 items that are used for the purpose of engaging in credit card fraud, defendant proceeded  
15 to commit identity theft and, on multiple occasions involving multiple victims, credit card  
16 fraud, as found by the jury in Case No. 14-CR-00536. In support of the instant motion,  
17 defendant has provided no evidence as to his work history or any other information as to  
18 how, if released, he would pay his expenses by lawful means.

19 Lastly, although defendant argues he is subjected to a heightened risk of  
20 contracting a severe illness from COVID-19, defendant has not shown he falls within any  
21 of the groups identified by the Center for Disease Control and Prevention as persons who  
22 are at such risk. See [https://www.cdc.gov/coronavirus/2019-ncov/need-extra-](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html)  
23 [precautions/people-at-higher-risk.html](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html).

24 Accordingly, defendant's request is hereby DENIED.

25 **IT IS SO ORDERED.**

26  
27 Dated: April 3, 2020

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MAXINE M. CHESNEY  
United States District Judge